IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 18 OF 2005
IN
WRIT PETITION NO. 6278 OF 2002

Sidramayya Sidhaya Swami ....Petitioner.
V/s
The Sabhapati, Krushi Utpanna Bazar Samiti, Solapur & Ors... ....Respondents.

Mr.S.G.Kudle, Adv. For the petitioner.

Mr.G.S.Godbole, Adv. For respondent No.1.

Mr.P.S.Dani, Adv. For respondent No.3.

CORAM: A.P.DESHPANDE, J.
3/7/07

PC:

Before deciding the review petition filed in above Writ petition it may be stated that the above writ petition came to be disposed of by Hon'ble Shri Justice Radhakrishnan and hence ordinarily review petition ought to have been decided by the same learned Judge. It appears that the learned Judge has passed an order in relation to the counsel appearing for review petitioner, for not placing his matter before Hon'ble Judge. In the above circumstances this review petition has been placed before this Court.

2. The present review petitioner along with about 55 similarly situated daily rated employees who were working with respondent No.1-APMC had moved the Industrial Court by filing different complaints alleging therein that the respondent No.1 had committed unfair labour practice under item Nos.5, 6, 9 and 10 of Schedule IV of the Maharashtra

Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 (the "Act"). The Industrial Court by a common judgment disposed of the complaints after recording a finding that the respondent No.1/employer herein is guilty of unfair labour practice under items 6 of Schedule IV of the Act. Aggrieved by the judgment and order passed by the Industrial Court dated 13.8.2002 respondent No.1 herein filed 21 writ petitions covering about 56 employees. This Court issued notice to the employees and by an interim order granted stay to the judgment and order passed by the Industrial Court. In this situation the employees including the present petitioner approached the respondent No.1 by a representation dated 20.11.2002 requesting the 1st respondent to resolve the dispute by amicable settlement on whatever terms respondent No.1 finds just and fair. Acting on the said representation the 1st respondent took a decision to settle the dispute. It is relevant to note at this stage that the Industrial Court had granted relief of permanency together with difference in back wages. The respondent No.1 resolved to grant permanency with continuity of service, as the employees agreed to give up their claim for back wages. In this fact situation consent terms in the form of minutes of order were filed by all the employees barring three employees. Consent terms were not filed in regard to three employees for the reason that one of the respondent had expired and the other had attained age of superannuation. All the writ petitions came to be disposed of in the said consent terms. In the back drop of factual position narrated herein above the present petitioner has filed the instant review petition, inter alia, making allegations against non-applicant No.3 who had appeared as an advocate for the petitioner. The review petition has been filed on the basis of the following averments which are reproduced herein below:

"After receipt of the notice of the said petition (W.P.No.6278/02),

the pressure was brought upon the applicant by the respondent No.1 and accordingly the signature on the blank vakalatnama was obtained under duress and in the result ultimately it transpired that respondent No.1 herein, by making the provision of professional charges of respondent No.3 herein, misled the Court to the effect that the petitioner/applicant has given up his claim for difference in salary, but however the applicant herein did not consent for filing of such statement before this Hon'ble Court and without knowledge of the applicant, said consent terms came to be filed behind the back of the applicant and on the basis of misleading statement made by respondent No.1 and respondent No.3-Advocate the Hon'ble Court was pleased to pass an order in terms of consent minutes of order."

As stated hereinabove as many as 19 writ petitions came to be disposed of by passing an order in consent terms and the respondent No.3-Advocate was appearing in as many as 17 writ petitions. No other employee has made any grievance about the disposal of the matters in consent terms. The averments made in the review petition are that respondent No.1-APMC has brought pressure on the applicant and forced him to sign blank vakalatnama under duress and after obtaining the said vakalatnama, respondent No.1 has used the same by engaging respondent No.3 and by paying his professional fees. It will not be out of place to mention at this juncture that one of the employees did not agree for the disposal of writ petition in consent terms and chose to contest the matter. Writ petition filed by respondent No.1 was allowed by this Court and it is held that the respondent No.1-APMC has not indulged in unfair labour practice. Most of the employees were appointed without they being selected by following proper procedure and thus the employees were keen to settle the matter. A representation was made by the

employees to respondent No.1 to settle the matter on terms and conditions which respondent No.1 may find just and fair and respondent No.1 has positively responded to the request made and thus brought about a settlement. Respondent No.1 by filing affidavit in reply has denied the reckless allegations made in the review petition. As the allegations are made against a juristic person viz. Respondent No.1-APMC the review petition should have disclosed the names of the persons who coerced and pressurized the applicant to sign the vakalatnama which is said to have been used for engaging the respondent No.3. It is then averred in the review petition that respondent No.1 and respondent No.3' Advocates have misled the Court in securing the order in consent terms. The Advocate for respondent No.1 is an advocate of repute practicing in this Court regularly. Having regard to the facts and circumstances narrated herein above I have no hesitation in holding that the averments made in the review petition are false and misleading. The review petition is wholly devoid of any merits and substance. In the result, review petition is dismissed subject to payment of costs quantified at Rs.5000/- to be paid by the review petitioner to respondent No.1 within four weeks from today.